Leave of Absence

Mr. SPEAKER.—I have received a letter from Sri Subbaya Naik, a member of the Assembly requesting for leave of absence from the House for the current session owing to ill-health.

Is it the pleasure of the Assembly that permission be granted to Sri Subbaya Naik for being absent from all meetings of the Assembly during the current session?

(The Members indicated their assent)

Permission to remain absent is granted.

Introduction of Bills.

Sri B. D. JATTI (Chief Minister).—I beg to introduce:

The Mysore Motor Vehicles (Taxation of Passengers and Goods) Bill, 1959.

Mr. SPEAKER.—The Bill is introduced.

Sri KADIDAL MANJAPPA (Minister for Revnue).—I beg to introduce:

1. The Mysore Famine Relief Fund Bill, 1959.

2. The Mysore Tenancy Laws (Second Amendment) Bill, 1959;

3. The Mysore Rent Control Laws (Continuance) Bill, 1959.

Mr. SPEAKER.—The Bills are introduced.

Sri T. SUBRAMANYA (Minister for Law, Labour and Local Self-Government).—I beg to introduce:

The Robertsonpet Municipality (Formation and Miscellaneous Provisions) Bill, 1959.

Mr. SPEAKER.—The Bill is introduced.

Sri T. MARIAPPA (Minister for Finance).—I beg to introduce:

The Madras Sugar Factories Control (Mysore Amendment and Validation of Levy of Cess) Bill, 1959.

Mr. SPEAKER.—The Bill is introduced.

Sri K. F. PATIL (Minister for Forests).—I beg to introduce:

The Madras Preservation of Private Forests (Continuation) Bill, 1959.

Mr. SPEAKER.—The Bill is introduced.

Sri B. BASAVALINGAPPA (Deputy Minister for Home).—I beg to introduce:—

The Mysore Prohibition of Smoking in Show Houses and Public Halls Bill, 1959.

Mr. SPEAKER.—The Bill is introduced.

MYSORE RENT CONTROL BILL, 1959

Chair's Ruling.

Mr. SPEAKER.—Before we proceed further with the debate on the motion before the House, I would like to give my ruling on the points raised by Hon'ble Member Sri M. C. Narasimhan on Saturday. In effect, he raised two points. The first was that the Bill sought to delegate certain legislative power and as required by rule 69 the Bill had to be accompanied by a memorandum explaining these proposals and drawing attention to their scope. Though he actually stated that these clauses should be printed in italics, what he had in mind evidently is rule 69 which requires a memorandum. I might state that usually my Secretariat scrutinises every Bill received from the Government to satisfy itself that the rules of procedure are observed. In this case also I understand that it was done. Except clause 56 which relates to the power to make rules and which contains the usual provisions necessary to administer this law, there is no clause which provides for any delegation of legislative authority. Rule 69 is very clear that a memorandum is required only when the delegation is of legislative power as such. For instance, where a Bill seeks to authorise a local authority to levy a tax, cess or fee that would properly be a delegation of legislative power. This is only by way of an illustratration. Actually, the

clauses referred to by the Hon'ble Member are clauses which confer on the authorities the usual powers required to administer the Act, but none of them confers any legislative power. In this view I am of the opinion that the Bill does not go against the provisions of rule 69.

The second point urged by the Hon'ble Member is that different provisisons are applied to different areas in the State and that therefore a sort of discrimination has been sought to be made by the Bill and different criteria are sought to be applied and the Bill therefore offends the provisions of equal protection of the laws conferred by article 14 of the Constitution. There is a long line of cases of the Supreme Court to the effect that equal treatment need not necessarily mean absolute uniformity and that even in cases where different provisions are applied to different classes or categories, this provision of the Constitution is not offended. However this point cannot be accepted on a more important and vital ground; the authority to decide whether any Bill offends against provision of the Constitution is a matter for the Courts to determine. If I were to hold that the Bill offends the Constitution and the Bill cannot be taken up in this House, the Courts are precluded from adjudicating on this issue. It may very well be that if the matter had gone to Court, they would have taken an opposite view and the opportunity for the Court to decide this issue would be denied if I were to decide on this question. Similarly, if I were to hold that the Bill is in consonance with the provisions of the Constitution, it does not preclude the Courts from holding to the contrary, should the matter come up before them later. It is on this view that most Legislatures have taken the stand that the Chair should not disallow any Bill from being considered by the House on the ground that the matter offends the Constitution. This question has been the subject of several rulings in various Legislatures, but I need refer to only two of them in the Lok Sabha. In 1951 when the Code of Criminal Procedure (Amendment) Bill was before the Lok Sabha, an Hon'ble Member contended that a particular clause of the Bill was *vltra vires* in view of article 14 of the Constitution. The Speaker observed that the Chair would not be willing to disallow any measure or clause being considered by the House on its own merits and the House coming to its own decision, except in cases where the matter is obviously *ultra vires*. He added that it is properly the function of the Judiciary to decide on complicated points of this type and come to any conclusion as to whether a particular clause or a particular measure is *ultra vires* or is inconsistent with the Constitution. I may again refer to the Indian Power Alcohol Amendment Bill which was considered by the Lok Sabha in 1952 when the same point was raised and the Deputy Speaker observed that when such an objection is taken, it is not for the Chair to give a ruling but that the objection could be taken into consideration by the House for the purpose of throwing it away. The Chair refused to take the responbibility of giving a ruling on this matter. He stated that it was open to the House to consider this objection as an objection on merits which would persuade to vote one way or the other on the motion. Even in the old Mysore State when this identical objection was raised to the Mysore Motor Spirit Taxation on Sales (Amendment) Bill, 1953, the Chair ruled as follows:

> "Considering all aspects of the question, I have come to the conclusion that when I am not free from doubt in my mind I should not hold that the matter is outside the scope of the State Legislature. I shall not by my ruling deprive the Assembly of the opportunity of discussing the Bill on its merits and then arriving at its own decision. The question whether the Bill is beyond the jurisdiction of the Legislature is a matter for the Courts of law to decide. Unless a Bill is manifestly beyond jurisdiction, the Chair should not rule out the Bill but should permit debate and leave the decision to Courts if and when the question is raised."

(MR. SPEAKER)

It is obvious that there may be cases where a Bill is so manifestly out of order that the Chair will have no option but to rule that the House is not competent to debate it. A legislation for instance seeking to legislate for the armed forces or matters which are patently inadmissible are the cases I have in view. In a question like the present one where there is not only no such manifest inconsistency but on balance of opinion it appears that the Bill is not patently out of order, it would not be proper for me to give a ruling on the merits of the objection.

Even the Bombay cases referred to by the Hon'ble Member, Sri Narasimhan, is against him because in that very case in which Sri Barucha raised a similar point of order, the Deputy Speaker who was in the Chair ruled as follows.

"I have heard the Hon'ble Member, Sri Barucha quite patiently. I am very sorry to say that he regards me as a Court. His point of order is whether the sales tax now proposed to be levied amounts to excise duty or not. Now even though he has raised this point of order, this point is for the Court to consider and not for me. For our purposes we have got to go through the Bill as it is before us. I am sorry therefore I cannot uphold the point of order raised by the Hon'ble Member, Sri Barucha."

Later rulings of the Bombay Legislature are to similar effect.

I therefore hold that there is no substance in the two points of order raised by the Hon'ble Member.

Motion to concur in the appointment of Joint Select Committee.

SRI M. C. NARASIMHAN (Kolar Gold Fields):—Sir, the Bill claims to protect firstly the tenants against the right of eviction by the landlords and secondly it seeks to justify itself on the footing that it fixes a fair rent. I must straightaway say that it does neither. It is really a misnomer to call it Rent Control Bill because what it seeks to do is not to control rents in any manner but to allow the normal speculative activities of landlords in the field which we are discussing. In fact I was rather surprised when the Revenue Minister brought this Bill because I had some faith in him since he considers himself as one belonging to 'ginger group.'

I was expecting that he would do something against speculative activities of landlords, and to see at least that the rents are fixed in a fair manner.

Since this Bill is going to be considered by a Joint Select Committee I shall make only a few suggestions. I hope that the Committee will take into account the various suggestions advanced in this House and draft a suitable Bill which will be a model one to the whole of India. It is not as if there are only very few enactments on the subject so that some new ground has to be struck. Any number of Acts on the subject were there already before the framers and the Ministry, but unfortunately the working of those enactments here and elsewhere has not been taken note of. For instance, let us take the question of fair rent. The object of the Bill is to fix fair rent. The clause that deals with this question is clause 14, but it does not lay down any reasonable or rational criteria in relation to the objective to be achieved. The only thing that the clause says is that the Rent Controller may take into account the rent that was prevalent in the year 1940 in the case of the Bombay area or any increases permitted subsequently by the 1947 Bombay Act, but there is no prescribed upper limit within which he could fix as the fair rent. It is customary in other legislations to fix an upper limit up to which the fair rent can go and beyond which it cannot go. If you take the Delhi Rent Control Act, which is one of the latest Acts passed by the Parliament on the subject, it definitely fixes the upper or ceiling limit within which the Controller can fix any rent that he likes, but that is not the position here. Here